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10 Proposed Attorneys for Debtor

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16 IN THE UNITED STATES BANKRUPTCY COURT
17 FOR THE DISTRICT OF OREGON

18 In re) Case No. 23-30159-thp11
19 Roy MacMillan, individually,)
20 Debtor.) APPLICATION TO EMPLOY COUNSEL
21) FOR DEBTOR (Sussman Shank LLP)
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17 Pursuant to 11 USC § 327, BR 2014, and LBR 2014-1, Roy MacMillan (“Debtor”),
18 applies for authorization to employ Sussman Shank LLP (“Sussman Shank”) to represent him as
19 his general bankruptcy counsel. In support of this application, Sussman Shank respectfully
represents:

20 1. On January 25, 2023, the Debtor filed his voluntary petition under Chapter 11 of
21 Title 11 of the United States Code (the “Bankruptcy Code”).

22 2. The Debtor is one of the owners and the managing member of R.O.D.A, LLC
23 (“RODA”). RODA owns the real property and improvements commonly known as the
24 Sherwood Ice Arena located in Sherwood, Oregon (the “Rink”). The Debtor also owns an equity
25 interest in and is the president of Stumptown Ice, Inc. (“Stumptown Ice”). Stumptown Ice leases
26 the Rink from RODA and operates the Rink for hockey, figure skating, training, and public ice

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1 skating. In January 2020, RODA purchased the Rink with a loan from PacWest Funding, Inc.
2 dba Precision Capital (“Precision”) in the original principal amount of \$5,682,000 (the “Rink
3 Loan”). The Debtor guaranteed the Rink Loan. In order to obtain additional funds to purchase
4 the Rink and provide operating capital, the Debtor obtained a personal loan from Precision in the
5 original principal amount of \$1,365,000 that is secured by his farm located in Yamhill and
6 Washington Counties, Oregon, (the “Farm Loan”). The Debtor loaned that money to RODA,
7 and RODA agreed to make all payments to Precision on the Farm Loan.

8 3. In 2020, the Rink was forced by the state of Oregon to shut down for a number of
9 months because of the COVID-19 pandemic. As a result, the Rink did not generate sufficient
10 income to make rent payments to RODA and RODA was unable to make the required payments
11 to Precision on the Rink and Farm Loans. On January 1, 2022, the Farm Loan matured, and on
12 February 1, 2022 the Rink Loan matured.

13 4. On June 3, 2022, Precision filed a Trustee’s Notice of Default and Election to Sell
14 the Rink property, with the Rink sale originally scheduled for October 13, 2022. On August 4,
15 2022, Precision filed an Amended and Correction of Trustee’s Notice of Default and Election to
16 Sell the Farm property, with the Farm sale scheduled for December 6, 2022. Precision
17 subsequently extended the dates of both sales, with the Farm sale extended to January 26, 2022
18 and the Rink sale extended to February 7, 2022. On January 25, 2023, in order to avoid the sale
19 of the Farm and to obtain time to propose a plan of reorganization, the Debtor was forced to file
20 Chapter 11 to prevent the trustee’s sale of the Farm from taking place.

21 5. The Debtor selected Sussman Shank because of Sussman Shank’s extensive
22 experience in representing Chapter 11 debtors. The Debtor believes Sussman Shank to be well-
23 qualified to represent him.

24 6. The professional services Sussman Shank is expected to render include, without
25 limitation, providing the Debtor with advice on his duties and responsibilities as a debtor-in-
26 possession, preparing and filing schedules, defending motions for relief from stay, analysis and

1 objections to claims, formulation and approval of a plan and disclosure statement, negotiations
2 with creditors and other parties in interest, and all other matters requiring legal representation of
3 the Debtor in his case.

4 7. To the best of Sussman Shank's knowledge, Sussman Shank is not a creditor of
5 the Debtor and has no interest adverse to the Debtor or its estates on any of the matters upon
6 which it is to be engaged, is a disinterested person as defined in 11 USC § 101(14), and its
7 employment would be in the best interest of the estate. Sussman Shank holds a retainer as
8 described below, but does not claim a security interest in any other property of the estate to
9 secure its fees.

10 8. To the best of Sussman Shank's knowledge, Sussman Shank has no connection
11 with the Debtor, creditors, or any party in interest or his respective attorneys or accountants,
12 except as may be set forth on the Rule 2014 Verified Statement filed herewith.

13 9. The Debtor has provided Sussman Shank with a retainer of \$54,000 to be applied
14 to postpetition fees and expenses.

15 10. **The Debtor has provided notice of this application to PacWest Funding, Inc.
16 dba Precision Capital and its counsel, the 20 largest unsecured creditors, and the Office of
17 the United States Trustee.** The Debtor submits that the foregoing constitutes good and
18 sufficient notice and that no other or further notice need be given in the circumstances.

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1 WHEREFORE, the Debtor prays that he be authorized to employ Sussman Shank as his
2 general bankruptcy counsel, and that he be authorized to pay a reasonable fee for Sussman
3 Shank's services and costs upon application and order of the court.

4 DATED this 26th day of January, 2023.

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6 */s/ Roy MacMillan*
7 By: _____
Roy MacMillan

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9 PRESENTED BY:

10 SUSSMAN SHANK LLP

11 */s/ Thomas W. Stilley*

12 By _____
Thomas W. Stilley, OSB No. 883167
13 Josh G. Flood, OSB No. 223085
Proposed Attorneys for Debtor

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15 *26350-003\APPLICATION TO EMPLOY (SUSSMAN SHANK LLP) (04142163);1

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LLP)**

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re

Debtor

Case No. _____
Amended

**VERIFIED STATEMENT IN SUPPORT OF
EMPLOYMENT APPLICATION**

Instructions to filer: This statement must be completed by each person proposed to be employed under 11 U.S.C. § 327, 1103, or 1114. If the application also seeks approval of employment of my firm, this form must be completed and signed on behalf of the firm by the member, associate, or employee of the firm who is expected to be primarily responsible for the engagement. If the firm is a law firm proposed to provide services in the case or an associated adversary proceeding, this form must be completed on behalf of the firm by the attorney of record. Any amended statement must include "Amended" in the title, be complete, and clearly identify changes from the previous filed version. Italicized text below constitutes further instructions.

I, Thomas W. Stilley, make this statement in support of the application for approval of my employment by [enter name of proposed employer, for example, name of debtor in possession, trustee, or creditors committee] Roy MacMillan (employer). If the application also seeks approval of employment of my firm, I make this statement on behalf of myself, my firm, and each other member, associate, or employee of my firm whom I expect to perform services for the employer in or in connection with this case, and each statement below is on behalf of each of those persons. Otherwise, paragraphs 2.3 and 2.5 below do not apply to this statement.

1. Disinterestedness

- 1.1. I am not a creditor of the debtor except: N/A
- 1.2. I am not an equity security holder of the debtor.
- 1.3. I am not and was not, within two years before the date of the filing of the petition, a director, officer, or employee of the debtor.
- 1.4. I do not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders by reason of any direct or indirect relationship to, connection with, or interest in the debtor or for any other reason.

2. Insider status

- 2.1. I am not a relative of the individual debtor [*"Relative" means an individual related by affinity or consanguinity within the third degree as determined by the common law or individual in a step or adoptive relationship within that third degree.*]
- 2.2. I am not a relative of an individual general partner of the debtor.
- 2.3. My firm is not a partnership in which the debtor is a general partner.
- 2.4. I am not a general partner of or in the debtor.
- 2.5. My firm is not a corporation of which the debtor is a director, officer, or person in control. [*"Corporation" has the meaning in 11 U.S.C. § 101(9) and includes limited liability company but not limited partnership.*]
- 2.6. I am not an officer or director of the debtor.
- 2.7. I am not a person in control of the debtor.
- 2.8. I am not a relative of a general partner, director, officer, or person in control of the debtor.
- 2.9. If the debtor is a municipality, I am not an elected official of the debtor or a relative of an elected official of the debtor.
- 2.10. I am not a managing agent of the debtor.

3. Affiliates of the debtor [*If the debtor has no affiliates, the affiliates list should say "None." In the balance of this statement, "affiliate" means an affiliate on the affiliates list below.*]

- 3.1. If I am an attorney proposed for employment as general bankruptcy counsel for the trustee or chapter 11 debtor in possession, the trustee or debtor in possession has with my advice prepared the list below of the debtor's affiliates, as that term is defined in 11 U.S.C. § 101(2), including each affiliate's name and relationship to the debtor.
- 3.2. If I am not an attorney described in paragraph 3.1 above, I have obtained from the trustee, chapter 11 debtor in possession, or the general bankruptcy counsel for the trustee or debtor in possession the list below of the debtor's affiliates, prepared in accordance with paragraph 3.1 above.
- 3.3. I am not an affiliate or an insider of an affiliate as if such affiliate were the debtor. [*"Insider" includes persons and other entities having a relation to the debtor listed in part 2 above.*]

4. Employment by chapter 11 committee

If I am proposed to be employed by a chapter 11 committee of creditors, equity-security holders, or retirees, I do not represent any other entity having an adverse interest in connection with the case.

5. Connections

I have no business, professional, personal, financial, or other connections with the debtor, affiliates, creditors, any party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee except: None

6. Compensation

6.1. If I am an attorney representing the debtor in or in connection with this case, the following are the details of all compensation paid or agreed to be paid to me within one year before the petition date for services rendered or to be rendered in contemplation of or in connection with this case, including payments made to me by either the debtor or a third party for any services rendered to the debtor within one year before filing of the petition:

2/3/2022	\$ 587.95	1/13/2023	\$11,887.00	
3/16/2022	\$2,894.55	1/24/2023	\$10,000.00	
3/30/2022	\$3,439.45	12/8/2022-	\$54,000.00	Chapter 11 Retainer
5/6/2022	\$2,530.00	1/5/2023		
5/31/2022	\$1,495.00			
6/27/2022	\$2,185.00			
7/21/2022	\$4,945.00			
8/16/2022	\$1,711.50			
10/5/2022	\$7,470.00			

6.2. If I am proposed to be employed by the trustee or, in a chapter 11 case, by the debtor in possession or a committee of creditors, equity-security holders, or retirees, I do not represent or hold an interest adverse to the interest of the estate with respect to the matter on which I am proposed to be employed.

If, during this case, any of the above statements ceases to be correct because of events occurring or information that I gain after the petition date, I agree to immediately file an amended statement on this form, include "amended" in the title, and clearly identify any changes.

I verify under penalty of perjury that the foregoing is true and correct. Executed on 1/25/2023.

Signature of individual proposed to be employed

Printed name of signer

Address (including firm name, if applicable)

LIST OF AFFILIATES OF THE DEBTOR

See *instructions in paragraph 3 above.*

Name of Affiliate	Relationship of Affiliate to the Debtor

CERTIFICATE OF SERVICE

I, Janine E. Hume declare as follows:

I am employed in the County of Multnomah, state of Oregon; I am over the age of eighteen years and am not a party to this action; my business address is 1000 SW Broadway, Suite 1400, Portland, Oregon 97205-3089, in said county and state.

I certify that on January 26, 2023, I served, **via first class mail**, a full and correct copy of the foregoing **(1) APPLICATION TO EMPLOY COUNSEL FOR DEBTOR (Sussman Shank LP), and (2) 2014 VERIFIED STATEMENT** to the parties of record, addressed as follows:

Brian Moynihan, CEO
Bank of America
100 North Tryon Street
Charlotte, NC 28255

Tom Chalstrom, President and CEO
First Federal Credit Union
PO Box 6354
Fargo, ND 58125

Jamie Dimon, Chairman and CEO
JPMorgan Chase Bank
PO Box 15290
Wilmington, DE 19850

Julia Manela
Watkins Laird Rubenstein PC
PO Box 10567
Eugene, OR 97440

Precision Capital
4710 Village Plaza Lane #100
Eugene, OR 97401

I also certify that on January 26, 2023, I served the above-referenced document(s) on all participants as indicated on the Court's Cm/ECF system.

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CERTIFICATE OF SERVICE - Page 1

1 I swear under penalty of perjury that the foregoing is true and correct to the best of my
2 knowledge, information, and belief.

3 Dated: January 26, 2023.

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5 /s/ Janine E. Hume

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Janine E. Hume, Legal Assistant

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